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<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/737,108	KHANDKAR ET AL.	
	Examiner	Art Unit	
	Javier G. Blanco	3738	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the After Final Amendment filed on May 3<sup>rd</sup>, 2005.
2. ☒ The allowed claim(s) is/are 1-3, 7-16 and 42-53.
3. ☒ The drawings filed on 22 November 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

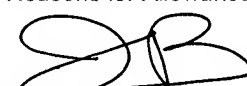
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|   | 9. <input type="checkbox"/> Other _____.   |

  
 Javier G. Blanco  
 May 13, 2005

**DETAILED ACTION**

***Response to Amendment***

1. The declaration under 37 CFR 1.131 filed on May 3, 2005 is sufficient to overcome the Ferree et al. (US 2004/0024462 A1) reference.

**EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Stuart O. Lowry on May 13, 2005.

Claim 1 (Currently Amended): A disc implant, comprising:  
a pair of end plates for affixation to adjacent vertebral bodies; and  
a bearing component formed respectively on each of said end plates and together respectively defining a pair of elongated bearing surfaces each having a generally part-circular cross sectional shape and at least one of said bearing surfaces further including laterally spaced-apart, offset radii defined by a generally flattened base segment interposed between a pair of curved sides, said bearing surfaces facing each other and extending generally on orthogonal axes relative to each other.

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Claim 3 (Currently Amended): The disc implant of claim 1 wherein each of said bearing surfaces has a cross sectional shape defined by laterally spaced-apart, offset radii defined by a generally flattened base segment interposed between a pair of curved sides.

Claim 7 (Currently Amended): The disc implant of claim 1 wherein said bearing surfaces each have an elongated shape defining opposite end segments of generally convex shape separated by a central segment defining a generally concave bearing seat, wherein at least one of said bearing seats has said cross sectional shape defined by laterally spaced-apart, offset radii defined by a generally flattened base segment interposed between a pair of curved sides.

Claim 8 (Currently Amended): The disc implant of claim 7 wherein said generally concave bearing seat of each of said bearing surfaces has a cross sectional shape defined by laterally spaced-apart, offset radii defined by a generally flattened base segment interposed between a pair of curved sides.

Claim 42 (Currently Amended): A disc implant, comprising:  
a pair of end plates for affixation to adjacent vertebral bodies; and  
a bearing component formed respectively on each of said end plates and together respectively defining a pair of elongated bearing surfaces facing each other and extending generally on orthogonal axes relative to each other;

each of said bearing surfaces defining opposite end segments of generally convex part-circular cross sectional shape separated by a central segment defining a generally concave

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bearing seat, and at least one of said bearing seats being further defined by a generally part-circular cross sectional shape including laterally spaced-apart offset radii defined by a generally flattened base segment interposed between a pair of curved sides.

Claim 43 (Currently Amended): The disc implant of claim 42 wherein said generally concave bearing seat of each of said bearing surfaces has a cross sectional shape defined by laterally spaced-apart, offset radii defined by a generally flattened base segment interposed between a pair of curved sides.

The above revisions were made in order to correct minor formalities.

### *Conclusion*

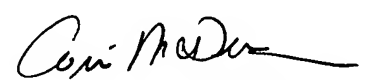
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 571-272-4747. The examiner can normally be reached on M-F (7:30 a.m.-4:00 p.m.), first Friday of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

JGB



May 13, 2005

  
CORRINE McDERMOTT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700